IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLIATION NO.780/06

Shri Mehmood Husain Qureshi — Applicant/Orig. Complainant

V/s.

Rizwan Akbar Hussain Syeed & Anr. — .... Respondents

Shri.V.M.Parshurami i/b.U.R. Agandsurve for Applicant.
Shri.S.A. Vaidya for Respondent No.1.
Miss. M.H. Mhatre for APP for State.

CORAM : V.M. KANADE, J.

DATED : 10/07/07

P.C.:-

1. Heard the learned counsel for the Applicant, learned counsel for the Respondent No.1 and the learned APP for the State.

2. By order dated 5th July, 2007, this Court had directed the Respondent No.1 to file additional affidavit. Accordingly, he has filed affidavit dated 6th July, 2007. In this affidavit, he has stated that after he was released by the Trial Court on bail on 10th February, 2006, he has vacated premises where he has been conducting his business of

embroidery. He has stated that thereafter, his workers have also vacated the said premises. He has stated that false NC complaints have been lodged by the Applicant.

3. Learned counsel for the Respondent No.1 undertakes not to return to the said premises during the pendency of the trial. Learned counsel appearing on behalf the Applicant, on the other hand, has stated that he has filed about 13 NC complaints on account of threats which were given by the Respondent No.1. He has stated that police have not taken any action against the Respondent No.1 and therefore, this is a fit case for cancelling the bail which was granted by the Trial Court.

4. As stated in the order dated 5th July, 2007 initially an application was allowed and bail which was granted to the Respondent No.1 was cancelled. Thereafter SLP was filed in the Apex Court. The Apex Court set aside the order and remanded the matter back for re-consideration and for passing fresh order in the application filed by the Applicant herein. In my view, since the affidavit has been filed by the Respondent No.1 stating therein that he has already closed down his

business and has not visited the premises and also in view of undertaking given by the Respondent No.1 that neither he nor his workers shall visit the premises during the pendency of the criminal trial, in my view, it is not necessary to pass order for cancelling the bail.

5. However, since the allegations have been made by the Applicant that the Respondent No.1 is misusing his liberty and is threatening him, it would be appropriate if certain conditions are imposed while disposing of this application.

(a). The Respondent No.1 shall not enter the premises where he is carrying on his embroidery business till pendency of the trial.

(b). He shall not threaten the Applicant or any of the other witnesses.

(c). If any complaint is filed by the Applicant herein against the Respondent No.1, same shall be inquired into by the police in order to verify if said complaint is genuine or not.

(d). The Applicant is at liberty to apply for cancellation of bail if in future any threats are received from

the Respondent No.1.

(e) It is clarified that if it is found that the Respondent No.1 makes further attempt to threaten the Applicant or tries to tamper with the evidence, liberty is granted to the prosecution and the Applicant to file an application for cancellation of bail in the Trial Court.

. With these directions, application is disposed of.

V.M. KANADE J.